

**REMARKS**

Claims 66-69 are canceled herein. Applicants note that claims 1-44 were previously canceled. Therefore, claims 45-65 are presently pending contrary to the indication in the Office Action summary sheet. Accordingly, upon entry of the Amendment, claims 44-65 will be all of the claims pending in the application.

**I. Double Patenting**

Claims 45-69 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-20 of U.S. Patent No. 6,548,489. The Examiner states that the claims are not identical but they are not patentably distinct from each other because when Q is N, the presently claimed invention is obvious because X=N has been claimed in US '489.

Claims 45-69 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 46-54 of U.S. Application No. 10/035,217 (recently allowed). The Examiner states that the claims are not identical but they are not patentably distinct because compound claims where Q=C or N have been allowed.

Claims 66-69 are canceled herein thereby rendering the rejection moot as to these claims. With respect to pending claims 45-65, Applicants submit Terminal Disclaimers for both the US '489 patent and the U.S. '217 application. Accordingly, Applicants respectfully request withdrawal of the rejection.

## II. Rejection of Claims Under 35 U.S.C. § 112, first paragraph

Claims 66-69 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. The Examiner takes the position that the nature of the methods claimed are unpredictable and there is a lack of guidance present in the specification such that one of ordinary skill in the art would have to go through undue experimentation to make and use the presently claimed invention.

Claims 66-69 are canceled herein, thereby rendering the rejection moot. Accordingly, Applicants respectfully request withdrawal of the rejection.

## III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: November 14, 2003

Respectfully submitted,

*for* *Kenneth Fields* *Reg. No. 52,430*  
Jennifer M. Hayes  
Registration No. 40,641